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Supreme Court, U.S.
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JOSEPH F. SPANIOL, JR.
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NO. 88-893

IN THE

SUPREME COURT OF THE UNITED STATES

OCTOBER TERM 1988

GLEN WALKER, et al.,

Appellants

vs.

VALLEY NATIONAL BANK OF DES MOINES, IOWA, ADMINISTRATOR OF THE FLORENCE WALKER ESTATE AND REXFORD WALKER, et al.,

Appellees

ON APPEAL FROM THE COURT OF APPEALS OF IOWA

APPELLANTS BRIEF IN OPPOSITION TO MOTION TO DISMISS OR AFFIRM

BENFORD WALKER, GLEN WALKER, AND BENFORD WALKER AND GLEN WALKER, NEXT FRIEND OF FLORENCE WALKER AND THE FLORENCE WALKER ESTATE

201 N.W. College
Ankeny, Iowa 50021

Appellants

7 pp

TABLE OF CONTENTS

	Page
TABLE OF CONTENTS.....	i
TABLE OF AUTHORITIES.....	i
RESISTANCE TO APPELLEES MOTIONS TO DISMISS AND ALTERNATIVE MOTION TO AFFIRM.....	1
STATEMENT REGARDING APPENDIX TO JURISDICTIONAL STATEMENT.....	4
CONCLUSION.....	4

TABLE OF AUTHORITIES

Cases	Page
Hughes Tool Co. V. Trans World Airlines, 409 U.S. 363.....	2
Kramer V. Union Free School District, 395 U.S. 621.....	1
Reynolds V. Sims, 377 U.S. 533.....	1
United States V. Carver, 260 U.S. 482.....	2
Amendment 14 United States Constitution.....	1
Amendment 21 Iowa Constitution.....	1,2

RESISTANCE TO APPELLEES' MOTION TO DISMISS AND ALTERNATIVE MOTION TO AFFIRM

The Appellees motions to dismiss and alternative motion to affirm are without merit. The issues presented in this appeal are substantial. The 21st Amendment to the Iowa Constitution grants the right to vote for judicial nominating commission members to attorneys but denies that right to appellants. Thus denying appellants their rights under the 14th Amendment to the United States Constitution

A statute such as this poses "the danger of denying some citizens any effective voice in governmental affairs which substantially affect their lives. Kramer V. Union Free School District 395 U.S. 621, 627 so ". . . any infringment of the right to vote must be carefully and meticulously scrutinized." Reynolds V. Sims 377 U.S. 533, 562. It follows that this case is properly before the Supreme Court.

The argument in Appellees' Motions, that issues presented by Appellants for Supreme

Court review have been conclusively determined against Appellants (Appellees Motion to Dismiss, etc., P. 7 and P. 9), is without merit. Appellees' try to base their argument on the fact that Appellants filed a complaint in the United States District Court which led ultimately in denial of certiorari by the Supreme Court (Appellees' Motions, P. 8, 9) again as in the jurisdictional statement Appellants point out that that denial imports no expression upon the merits of the case, United States V. Carver 260 U.S. 482, 490 or does it amount to res judicata regarding the issues raised. Hughes Tool Co. V. Trans World Airlines 409 U.S. 363, 366.

Incidentally the ruling by the eighth circuit court of appeals (Appendix A, P. 19, to Appellees' Brief) is not correct. Appellants objected to the 21st Amendment to the Iowa constitution because it denied them the right to vote for the judicial nominating commission members while others had that

right. The issue was not the right to vote for judges per se.

Appellants point out that the five appeals to the Iowa Supreme Court (Appellees' Brief P. 6) were not taken to delay proceedings but to preserve Appellants rights because in Iowa orders of the probate court are final orders for purposes of appeal.

Also Appellants did not obtain the transcript (Appellees' Motion P. 13, 14) because they could not afford it (Appellants Jurisdictional Statement P. 23).

In their motion Appellees did not mention the issue regarding the arbitrary rotation of judges from one election district to another. They also did not address the issue of improper representation of Florence Walker and her estate. As set forth in the Jurisdictional Statement these issues further point out that Appellants were denied fundamental rights of due process, equal protection, and access to the court.

The authority cited by Appellees' adds nothing in support of their motions. Although cases may have existed where the issues presented to the court were not sufficient to serve as the basis for the courts jurisdiction, such is not the case in this appeal and the Appellees have not shown otherwise.

STATEMENT REGARDING APPENDIX TO JURISDICTIONAL STATEMENT

There was a typographical ommission to Appendix M, P. 36 of the Appendix to the Jurisdictional Statement. In addition thereto should be the words:

signed by Ray Hanrahan
Judge, Fifth Judicial District
of Iowa

CONCLUSION

For the reasons stated above the Supreme Court should overrule Appellees' Motion to Dismiss and Alternative Motion to Affirm.

Respectfully Submitted

Glen Walker
Glen Walker

Benford Walker
Benford Walker

Glen Walker
Glen Walker

Benford Walker
Benford Walker

Glen Walker and Benford Walker,
Next Friend of Florence Walker
and the Florence Walker Estate

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